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Letter Ruling 00-2: Trade-in of Motor Vehicle

January 28, 2000

You request a ruling on behalf of \*\*\*\*\* an auto dealership engaged in the sales and service of both new and used luxury motor vehicles ("Auto Dealership"), concerning the application of Massachusetts sales tax to two different factual situations.

Facts – Request # 1

A customer "trades-in" a vehicle, signs over the title, and receives a check from Auto Dealership for the agreed upon value of the vehicle. At the same time, the customer also enters into a legally binding purchase contract with Auto Dealership for a specially ordered vehicle to be delivered at a future date, generally six months or more later. The customer endorses the check representing the proceeds from the sale of the vehicle traded-in back to the Auto Dealership to be held as a deposit under the purchase contract. In the event that the customer breaches the purchase contract by failing to accept delivery of the new vehicle and paying the balance of the purchase price, the contract provides that Auto Dealership may retain the deposit in whole or in part for any loss sustained by the dealership.

Issue – Request # 1

Is the sales tax on the new vehicle sold to the Auto Dealership's customer calculated on the full sales price of the new vehicle or may the sales price of the new vehicle be reduced by the amount paid to the customer for the vehicle sold to the dealership at the time the purchase contract was executed?

Ruling – Request # 1

Providing that the other requirements of 830 CMR 64H.25.1(5)(c) are met, sales tax on the new vehicle sold to the retail customer is calculated on the purchase price less the amount received from the vehicle traded-in. Under these facts, the execution of a legally binding purchase contract for a new vehicle at the same time the old vehicle is traded in satisfies the requirement in G.L. c. 64H, § 26 that the trade-in occur at the time of the sale of another vehicle by the Auto Dealership to the retail customer.

Discussion of Law – Request # 1

Generally, the sales price subject to tax of tangible personal property sold is "the total amount paid by a purchaser to a vendor as consideration for a retail sale, valued in money or otherwise." G.L. c.

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64H, § 1. An exception to this general rule is provided in G.L. c. 64H, § 26, which provides: "Where a trade-in of a motor vehicle or trailer is received by a dealer in such vehicles holding a valid vendor's registration, upon the sale of another motor vehicle or trailer to a consumer or user, the tax shall be imposed only on the difference between the sales price of the motor vehicle or trailer purchased and the amount allowed on the motor vehicle or trailer traded in on such purchase."

The Department's sales tax regulation on motor vehicles, 830 CMR 64H.25.1, defines "trade-in" as "the transfer of complete ownership of a motor vehicle, trailer, or other vehicle from a purchaser to a seller, but only if the transfer occurs at the time of and as consideration for a sale of a similar type of vehicle by the seller to the purchaser." Both the statute and regulation require that the trade-in occur "contemporaneously" with the purchase. See *Edward Accomando v. Commissioner of Revenue*, ATB Docket No. 173930 (1991).<sup>[1]</sup>

The execution of a legally binding contract to purchase a new vehicle at the time of trading in another vehicle to the Dealership and use of the proceeds from the trade-in as a non-refundable deposit on that contract satisfies the requirement that the sale of the new vehicle take place at the time of the trade-in. Although six months or more may elapse between the actual trade-in and the delivery of the new vehicle, the retail customer is contractually bound to purchase the new vehicle at the time of the trade-in. In the remote event that either the buyer breaches the contract, dies before the new vehicle is available, or is otherwise unable or unwilling to complete the purchase of the new vehicle, then no sale of another vehicle to that retail customer would occur and the issue of a trade-in reduction on the sales price of that vehicle would be moot.

#### Facts – Request #2

A customer wishes to trade-in a vehicle to the Auto Dealership and apply a portion of the trade-in credit (trade-in value less pay-off of existing debt) as a "capitalized cost reduction" (cash down payment) on the lease of another vehicle. The customer wishes to receive the balance of the trade-in equity as a payment from the Auto Dealership. This situation may arise because of limitations on the amount of a capitalized cost reduction that is acceptable to the lessor on a particular lease or because the customer wants part of the cash from the trade-in credit and is willing to make larger lease payments during the term of the lease.

#### Issue – Request # 2

When the criteria in DOR Directive 97-4 are met, a trade-in credit on a motor vehicle lease is not part of the sales price subject to tax. Is this result changed where a portion of the trade-in credit is applied to the lease and the balance being is paid directly to the customer by the Auto Dealership?

#### Ruling – Request # 2

Assuming that the criteria of DOR Directive 97-4 are met, the portion of the trade-in credit (the value of the vehicle traded in less any debt encumbering the vehicle) applied to the lease as a capitalized cost reduction is not part of the sales price subject to tax. This result does not change if the customer elects to receive a portion of the trade-in credit as a direct payment from the Auto Dealership.

#### Discussion of Law – Request # 2

DOR Directive 97-4, Directive 1(b), provides: "A trade-in credit on a motor vehicle lease, either as a Capitalized Cost Reduction or otherwise applied toward payments due under the lease, is not part of the sales price subject to tax if all of the following criteria are met:

- (1) the dealer holds a valid Massachusetts Vendor's Registration Certificate,

- (2) the dealer entered into the transaction in the regular course of business,
- (3) the lessee previously paid tax on the vehicle traded-in or was exempt from tax on the vehicle traded-in, and
- (4) the vehicle traded-in was titled to the lessee.

The amount of a trade-in credit is generally the value of the vehicle traded in less any debt encumbering that vehicle. If all of the above criteria are not met, the amount of a trade-in credit is part of the sales price subject to tax in accordance with the provisions of 830 CMR 64H.25.1 and Directive 97-4.”

The general rules, as stated in the Directive, apply to this situation. There is no requirement that the entire trade-in credit be applied to the lease. However, only the portion of the credit applied to the lease as a capitalized cost reduction (and not the portion paid directly to the customer) will be excluded from the sales price subject to tax.

Very truly yours,

/s/Bernard F. Crowley, Jr.

Bernard F. Crowley, Jr.  
Senior Deputy Commissioner of Revenue

BFD:DMS:ecl

LR 00-2

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[\[1\]](#) In this case the ATB refused to permit trade-in treatment (which would have resulted in an abatement of sales tax) where a replacement vehicle was purchased before another vehicle was sold. The taxpayer stated that he hoped to get more money for the vehicle being sold by waiting until Spring. The facts are distinguishable from those presented in this ruling request.